



Reprinted
March 6, 2001

HOUSE BILL No. 1156

DIGEST OF HB 1156 (Updated March 5, 2001 2:09 PM - DI 96)

Citations Affected: IC 9-13; IC 9-18; IC 9-23; IC 9-29; IC 9-30.

Synopsis: Various motor vehicle matters. Defines "relevant market area" for a motor vehicle dealer. Requires a franchisor to give notice to each new motor vehicle dealer within the relevant market area where the same line make is represented before the franchisor enters a franchise establishing or relocating a new motor vehicle dealer within the relevant market area. Allows a new motor vehicle dealer to bring a declaratory judgment action to determine whether good cause exists for the establishing or relocating of a proposed new motor vehicle dealer. Provides that it is an unfair practice for a motor vehicle manufacturer or dealer to establish or acquire wholly or partially a franchisor owned outlet engaged in a business substantially identical to that of a franchisee within the exclusive territory granted the franchisee by the franchise agreement. Amends the law on the succession to a motor vehicle dealership franchise. Provides that a temporary vehicle delivery permit is valid for 96 hours rather than for 48 hours. Provides for a registration category and fee for certain truck and tractors with a declared gross weight of greater than 10,000 pounds and equal to or less than 11,000 pounds. Provides that a court may require a person to attend and complete a driver improvement course with an assessment to cover the direct cost of the course that may not exceed \$30 for a classroom presentation or \$40 for a distance learning presentation.

Effective: July 1, 2001; January 1, 2002.

Cook, Ruppel, Mannweiler

January 9, 2001, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

February 22, 2001, amended, reported — Do Pass.

March 5, 2001, read second time, amended, ordered engrossed.

HB 1156—LS 7079/DI 94+



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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1156

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-13-2-151.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2001]: **Sec. 151.5. "Relevant market area",**
4 **for purposes of IC 9-23-3, means the following:**

5 (1) With respect to a:

6 (A) **proposed new motor vehicle dealer in a county having**
7 **a population of more than one hundred thousand**
8 **(100,000); or**

9 (B) **new motor vehicle dealer who plans to relocate the**
10 **dealer's place of business in a county having a population**
11 **of more than one hundred thousand (100,000);**

12 **the area within a radius of six (6) miles of the intended site of**
13 **the proposed or relocated dealer. The six (6) mile distance**
14 **shall be determined by measuring the distance between the**
15 **nearest surveyed boundary of the existing new motor vehicle**
16 **dealer's principal place of business and the nearest surveyed**
17 **boundary line of the proposed or relocated new motor vehicle**

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dealer's place of business.

(2) With respect to a:

(A) proposed new motor vehicle dealer in a county having a population that is not more than one hundred thousand (100,000); or

(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population that is not more than one hundred thousand (100,000); the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer, or the county line, whichever is closer to the intended site. The ten (10) mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

SECTION 2. IC 9-18-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) An Indiana resident who owns a vehicle required to be registered under this title may, for the purpose of delivering or having delivered the vehicle to the residence or place of business of the resident, apply for and obtain a temporary permit that allows the person or the person's agent or employee to operate the vehicle upon the highways without obtaining a certificate of title or registration for the vehicle. The permit is valid for not more than ~~forty-eight (48)~~ **ninety-six (96)** hours.

(b) A person must do the following to obtain a permit under this section:

(1) Pay the required fee with the application.

(2) Provide proof of financial responsibility in the amounts specified under IC 9-25 in the form required by the bureau.

SECTION 3. IC 9-23-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 23. It is an unfair practice for a manufacturer, distributor, officer, or agent to do any of the following:

(1) Require, coerce, or attempt to coerce any new motor vehicle dealer in Indiana to:

(A) change location of the dealership;

(B) make any substantial alterations to the use of franchises; or

(C) make any substantial alterations to the dealership premises or facilities;

if to do so would be unreasonable or would not be justified by

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current economic conditions or reasonable business considerations. This subdivision does not prevent a manufacturer or distributor from establishing and enforcing reasonable facility requirements.

(2) Require, coerce, or attempt to coerce any new motor vehicle dealer in Indiana to divest its ownership of or management in another line or make of motor vehicles that the dealer has established in its dealership facilities with the prior written approval of the manufacturer or distributor.

(3) Establish or acquire wholly or partially a franchisor owned outlet engaged **wholly or partially** in a substantially identical business to that of the franchisee within the exclusive territory granted the franchisee by the franchise agreement or, if no exclusive territory is designated, competing unfairly with the franchisee within a reasonable market area. A franchisor is not considered to be competing unfairly if operating:

(A) a business either temporarily for a reasonable period of time;

(B) in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price; or

(C) in a bona fide relationship in which an independent person or persons have made a significant investment subject to loss in the business operation and can reasonably expect to acquire majority ownership or managerial control of the business on reasonable terms and conditions.

This subsection shall not apply to recreational vehicle manufacturer franchisors.

SECTION 4. IC 9-23-3-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 24. (a) This section does not apply to the relocation of a new motor vehicle dealer to a location that is not more than two (2) miles from its established place of business.**

(b) This section does not apply to the reopening or replacement in a relevant market area of a closed dealership that has been closed within the preceding year, if the established place of business of the reopened or replacement dealer is within two (2) miles of the established place of business of the closed dealership.

(c) Before a franchisor enters into a franchise establishing or relocating a new motor vehicle dealer within a relevant market area where the same line make is represented, the franchisor shall give written notice to each new motor vehicle dealer of the same line make in the relevant market area of the franchisor's intention



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to establish an additional dealer or to relocate an existing dealer within that relevant market area.

(d) Not later than thirty (30) days after:

(1) receiving the notice provided for in subsection (c); or

(2) the end of any appeal procedure provided by the franchisor;

a new motor vehicle dealer may bring a declaratory judgment action in the circuit court for the county in which the new motor vehicle dealer is located to determine whether good cause exists for the establishing or relocating of a proposed new motor vehicle dealer. If an action is filed, the franchisor may not establish or relocate the proposed new motor vehicle dealer until the circuit court has rendered a decision on the matter. An action brought under this section shall be given precedence over all other civil matters on the court's docket.

(e) In determining whether good cause exists for establishing or relocating an additional new motor vehicle dealer for the same line make, the court shall take into consideration the existing circumstances, including the following:

(1) Permanency of the investment.

(2) Effect on the retail new motor vehicle business and the consuming public in the relevant market area.

(3) Whether it is injurious or beneficial to the public welfare.

(4) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line make in the market area, including the adequacy of motor vehicle sales and qualified service personnel.

(5) Whether the establishment or relocation of the new motor vehicle dealer would promote competition.

(6) Growth or decline of the population and the number of new motor vehicle registrations in the relevant market area.

(7) The effect on the relocating dealer of a denial of its relocation into the relevant market area.

SECTION 5. IC 9-23-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. This chapter does not apply to a franchise if:

(1) the franchise is granted to a dealer other than a new motor vehicle dealer; and

(2) the franchise or other written document filed with the franchisor includes the franchisee's designation of a successor to

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the franchise who is not the:

(A) franchisee's spouse;

(B) child;

(C) grandchild;

(D) spouse of a:

(i) child; or

(ii) grandchild;

(E) parent; or

(F) sibling.

SECTION 6. IC 9-29-5-3 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2002]: Sec. 3. Except as otherwise
provided in this chapter, the annual registration fee for:

(1) a truck subject to registration under IC 9-18; and

(2) a tractor not used with a semitrailer, a traction engine, or other
similar vehicle used for hauling purposes;

is as follows:

Declared Gross Weight (Pounds)		Fee
Greater than	Equal to or less than	
0	7,000	\$ 20
7,000	9,000	40
9,000	11,000 10,000	70
10,000	11,000	75
11,000	16,000	135
16,000	20,000	175
20,000	23,000	235
23,000	26,000	235
26,000	30,000	295
30,000	36,000	413
36,000	42,000	506
42,000	48,000	627
48,000	54,000	730
54,000	60,000	810
60,000	66,000	858
66,000		956

SECTION 7. IC 9-30-3-16 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) If a person has
been found to have committed a traffic offense, the court may do the
following:

(1) Require the person to attend and satisfactorily complete a
driver improvement course that has been approved by the court
and the bureau or by the bureau.

(2) Place the person on probation for up to one (1) year.



- 1 (3) Suspend the person's driver's license for up to thirty (30) days.
2 (b) A driver improvement course required under subsection (a) may
3 be financed by assessing a charge that covers the direct cost of the
4 course. However, the charge may not exceed: ~~twenty-five~~
5 **(1) thirty dollars (\$25); (\$30) for a classroom presentation; or**
6 **(2) forty dollars (\$40) for a distance learning presentation.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1156, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "means, with respect to a new motor" and insert **"means the following:**

(1) With respect to a:

(A) proposed new motor vehicle dealer in a county having a population of more than one hundred thousand (100,000); or

(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000);

the area within a radius of six (6) miles of the intended site of the proposed or relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's place of business.

(2) With respect to a:

(A) proposed new motor vehicle dealer in a county having a population that is not more than one hundred thousand (100,000); or

(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population that is not more than one hundred thousand (100,000);

the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer, or the county line, whichever is closer to the intended site. The ten (10) mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business."

Page 1, delete lines 5 through 17, begin a new paragraph and insert:

"SECTION 2. IC 9-18-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) An Indiana resident who owns a vehicle required to be registered under this title may, for the purpose of delivering or having delivered the vehicle to the residence or place of business of the resident, apply for and obtain

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a temporary permit that allows the person or the person's agent or employee to operate the vehicle upon the highways without obtaining a certificate of title or registration for the vehicle. The permit is valid for not more than ~~forty-eight (48)~~ **ninety-six (96)** hours.

(b) A person must do the following to obtain a permit under this section:

- (1) Pay the required fee with the application.
- (2) Provide proof of financial responsibility in the amounts specified under IC 9-25 in the form required by the bureau."

Page 3, line 1, delete "It is an unfair practice for a manufacturer or" and insert **"(a) This section does not apply to the relocation of a new motor vehicle dealer to a location that is not more than two (2) miles from its established place of business.**

(b) This section does not apply to the reopening or replacement in a relevant market area of a closed dealership that has been closed within the preceding year, if the established place of business of the reopened or replacement dealer is within two (2) miles of the established place of business of the closed dealership.

(c) Before a franchisor enters into a franchise establishing or relocating a new motor vehicle dealer within a relevant market area where the same line make is represented, the franchisor shall give written notice to each new motor vehicle dealer of the same line make in the relevant market area of the franchisor's intention to establish an additional dealer or to relocate an existing dealer within that relevant market area.

(d) Not later than thirty (30) days after:

- (1) receiving the notice provided for in subsection (c); or**
- (2) the end of any appeal procedure provided by the franchisor;**

a new motor vehicle dealer may bring a declaratory judgment action in the circuit court for the county in which the new motor vehicle dealer is located to determine whether good cause exists for the establishing or relocating of a proposed new motor vehicle dealer. If an action is filed, the franchisor may not establish or relocate the proposed new motor vehicle dealer until the circuit court has rendered a decision on the matter. An action brought under this section shall be given precedence over all other civil matters on the court's docket.

(e) In determining whether good cause exists for establishing or relocating an additional new motor vehicle dealer for the same line make, the court shall take into consideration the existing circumstances, including the following:

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- (1) Permanency of the investment.**
- (2) Effect on the retail new motor vehicle business and the consuming public in the relevant market area.**
- (3) Whether it is injurious or beneficial to the public welfare.**
- (4) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line make in the market area, including the adequacy of motor vehicle sales and qualified service personnel.**
- (5) Whether the establishment or relocation of the new motor vehicle dealer would promote competition.**
- (6) Growth or decline of the population and the number of new motor vehicle registrations in the relevant market area.**
- (7) The effect on the relocating dealer of a denial of its relocation into the relevant market area."**

Page 3, delete lines 2 through 14.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1156 as introduced.)

KUZMAN, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1156 be amended to read as follows:

Page 5, after line 9, begin a new paragraph and insert:

"SECTION 6. IC 9-29-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. Except as otherwise provided in this chapter, the annual registration fee for:

- (1) a truck subject to registration under IC 9-18; and
- (2) a tractor not used with a semitrailer, a traction engine, or other similar vehicle used for hauling purposes;

is as follows:

Declared Gross Weight (Pounds)		Fee
Greater than	Equal to or less than	
0	7,000	\$ 20
7,000	9,000	40
9,000	11,000 10,000	70
10,000	11,000	75
11,000	16,000	135
16,000	20,000	175
20,000	23,000	235
23,000	26,000	235
26,000	30,000	295
30,000	36,000	413
36,000	42,000	506
42,000	48,000	627
48,000	54,000	730
54,000	60,000	810
60,000	66,000	858
66,000		956

SECTION 7. IC 9-30-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) If a person has been found to have committed a traffic offense, the court may do the following:

- (1) Require the person to attend and satisfactorily complete a driver improvement course that has been approved by the court and the bureau or by the bureau.
- (2) Place the person on probation for up to one (1) year.
- (3) Suspend the person's driver's license for up to thirty (30) days.

(b) A driver improvement course required under subsection (a) may be financed by assessing a charge that covers the direct cost of the course. However, the charge may not exceed: ~~twenty-five~~

- (1) **thirty dollars (\$25): (\$30) for a classroom presentation; or**

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(2) forty dollars (\$40) for a distance learning presentation."

(Reference is to HB 1156 as printed February 23, 2001.)

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